

## ARBITRATION AND CONCILIATION

*Treaty signed at Washington February 16, 1931*

*Senate advice and consent to ratification April 29, 1932*

*Ratified by Switzerland May 4, 1932*

*Ratified by the President of the United States May 9, 1932*

*Ratifications exchanged at Washington May 23, 1932*

*Entered into force May 23, 1932*

*Proclaimed by the President of the United States May 25, 1932*

47 Stat. 1983; Treaty Series 844

The President of the United States of America and the Swiss Federal Council

Mindful of the obligations, which have been assumed by the United States of America and Switzerland, that the settlement of all disputes of whatever nature or of whatever origin, which may arise between them, shall never be sought except by pacific means; desirous moreover of reaffirming the adherence of the two countries to the principle of submitting to impartial decision all juridical controversies in which they may become involved; and eager to demonstrate the sincerity of the renunciation of war as an instrument of national policy in the relations between the United States of America and Switzerland,

Have decided to conclude a treaty of arbitration and conciliation and for that purpose have appointed as their respective Plenipotentiaries: --

The President of the United States of America:

Henry L. Stimson, Secretary of State of the United States of America; and

The Swiss Federal Council:

Marc Peter, Envoy Extraordinary and Minister Plenipotentiary of Switzerland to the United States of America;

Who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

### ARTICLE I

Every dispute arising between the Contracting Parties, of whatever nature it may be, shall, when ordinary diplomatic proceedings have failed, be sub-

mitted to arbitration or to conciliation, as the Contracting Parties may at the time decide.

## ARTICLE II

Any dispute which has not been settled by diplomacy and in regard to which the Contracting Parties do not in fact have recourse to adjudication by an arbitral tribunal shall be submitted for investigation and report to a Permanent Commission of Conciliation constituted in the manner hereinafter prescribed.

## ARTICLE III

The Permanent Commission of Conciliation shall be composed of five members and shall be constituted as soon as possible after the exchange of ratifications of this Treaty. Each of the Contracting Parties shall appoint two members, one from among its own nationals, the other from among the nationals of a third State. The Contracting Parties will, in common accord, appoint the fifth member, who shall not be one of their nationals, and who shall be ex officio the President of the Commission. If no agreement is reached as to the choice of the President of the Commission his election shall be conducted in accordance with the method prescribed in the fourth, fifth and sixth paragraphs of Article 45 of the Convention for the Pacific Settlement of International Disputes, concluded at The Hague on October 18, 1907.<sup>1</sup>

At any time when there is no case before the Commission, either of the Contracting Parties may recall a member of the Commission appointed by it and may designate his successor. The recall of the President of the Commission will be effected at any such time on the request of either Contracting Party, provided that if the President shall have been elected in accordance with the method prescribed in the fourth, fifth and sixth paragraphs of Article 45 of the Convention for the Pacific Settlement of International Disputes, concluded at The Hague on October 18, 1907, no request for his recall may be made within a period of two years from the date of his election. Vacancies, from whatever cause, shall be filled as soon as possible in the manner hereinabove provided for the making of original appointments.

Members of the Commission shall receive an adequate honorarium during the time when they are engaged in the performance of duties relating to a case before them. Each of the Contracting Parties will bear its own expenses and one-half of the expenses of the Commission.

## ARTICLE IV

After the Contracting Parties shall have agreed to submit a dispute to conciliation, the Commission shall proceed to the consideration of such dispute upon a request sent to its President by either of them.

<sup>1</sup> TS 536, *ante*, vol. 1, p. 577.

The Commission shall meet, in the absence of an agreement otherwise, at the place designated by its President.

The Commission may frame its own rules of procedure. In the absence of such rules it shall follow in so far as practicable the procedure set forth in Articles 18 to 34, inclusive, of the Convention for the Pacific Settlement of International Disputes concluded at The Hague, October 18, 1907.

The Commission shall submit its report within one year after the date on which the case shall have been submitted to it, unless the Contracting Parties should, in common accord, shorten or extend the time limit. The report shall be prepared in triplicate, one copy shall be presented to each Government and the third retained by the Commission for its files.

The Contracting Parties agree to furnish the Commission with all the means and facilities required for its investigation and report.

The Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

#### ARTICLE V

The Contracting Parties bind themselves to submit to arbitration every difference which may have arisen or may arise between them by virtue of a claim of right, which is juridical in its nature, provided that it has not been possible to adjust such difference by diplomacy and it has not in fact been adjusted as a result of reference to the Permanent Commission of Conciliation constituted pursuant to Articles II and III of this Treaty.

#### ARTICLE VI

The provisions of Article V shall not be invoked in respect of any difference the subject matter of which

(a) is within the domestic jurisdiction of either of the Contracting Parties,

(b) involves the interests of third Parties,

(c) depends upon or involves the maintenance of the traditional attitude of the United States of America concerning American questions, commonly described as the Monroe Doctrine,

(d) depends upon or involves the observance of the obligations of Switzerland in accordance with the Covenant of the League of Nations.<sup>2</sup>

#### ARTICLE VII

The tribunal to which juridical differences shall be submitted shall be determined in each case by the Contracting Parties but shall, in the absence of other agreement, be the Permanent Court of Arbitration established at The Hague by the Convention for the Pacific Settlement of International

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<sup>2</sup> *Ante*, vol. 2, p. 48.

Disputes concluded October 18, 1907. Decision as to the tribunal shall be made in each case by a special agreement, which special agreement shall provide for the organization of the tribunal if necessary, shall define its powers, shall state the question or questions at issue and shall settle the terms of reference.

Such special agreement shall, in each case, be made on the part of the United States of America by the President thereof, by and with the advice and consent of the Senate, and on the part of Switzerland in accordance with its constitutional law.

#### ARTICLE VIII

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by Switzerland in accordance with its constitutional law.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall come into force on the day of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated on notice of one year by either Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and French languages, both texts having equal force, and have hereunto affixed their seals.

Done at Washington the sixteenth day of February in the year one thousand nine hundred and thirty-one.

HENRY L. STIMSON	[SEAL]
MARC PETER	[SEAL]